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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,069	03/04/2002	Catherine Mary Dolbear	CM00740P	9255
7590	03/15/2007		EXAMINER	
Jonathan P Meyer Motorola Inc Intellectual Property Section Law Department 1303 East Algonquid Road Schaumburg, IL 60196			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
			2621	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/15/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/070,069	DOLBEAR ET AL.	
	Examiner Andy S. Rao	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12/30/06.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 5-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed with respect to claims 1-3, and 5-11 filed on 12/30/06 have been fully considered but they are not persuasive.
2. The Applicant presents one substantive argument contending the Examiner's rejection of claims 1-3, 5-11 under 35 U.S.C. 102(e) as being anticipated by Wan et al., (hereinafter referred to as "Wan"), said rejection being set forth in the Office Action of 11/01/06. However, after a careful consideration of the argument and further scrutiny of the Wan reference, the Examiner must respectfully disagree for the reasons that follow, and maintain the grounds of rejection for the reasons that follow.

After establishing the legal basis for the Applicants' alleged traverse of the rejection (Request for Reconsideration of 12/30/06: page 4, lines 3-12), and providing Applicants' interpretation of the applied Wan reference (Request for Reconsideration of 12/30/06: page 4, lines 18-26; page 5, lines 1-3), the Applicants argue that Wan fails to disclose "wherein the PSNR of bi-directionally predicted pictures are determined with reference to peak PSNRs of pictures in another layer..." as in the claims (Request for Reconsideration of 12/30/06: page 4, lines 13-17; page 5, lines 3-26; page 6, lines 1-20). The Examiner respectfully disagrees. It is noted that the section as relied upon by the Applicants to buttress their assertion deal with spatial scalability considerations, and therefore have little to do with the "temporal scalability" considerations of the claims or the sections of the Wan relied upon by the Examiner to address the claims. Therefore, it would appear to the Examiner to the Applicants' interpretation of Wan appears to be misplaced. Wan's disclosure of B-frame coding in the enhancement layer shows

that motion compensation for B frames comes from the I and P frames from lower level (Wan: column 5, lines 35-40; figure 2), such that across the various levels the same level of spatial resolution is obtained regardless of temporal scalability leading to the same PSNR ratios as referenced by the Applicants. However, it is noted that even with the same spatial resolution across scalable video, the temporal scalability is increased by a factor of 7 between layers. The bit-rate affects both the spatial scalability and the temporal scalability. With regards to the temporal scalability, it is noted that the TS factor would be modified in accordance with the Rates (1-3) which refers both the number of bits used and the PSNR of the base layer (Wan: column 9, lines 5-12). That coupled with the fact that B-frames are usually provided in an enhancement layer as opposed to the base layer and that the number of B frames provided are directly affected by the temporal scalability establishes that the B-frame bits are determined based on the PSNR and bits of the lower layers (Wan: column 7, lines 1-20: Table I, entry QB and M and N). Accordingly, the Examiner maintains that the limitation is met.

### *Conclusion*

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao  
Primary Examiner  
Art Unit 2621

ANDY RAO  
PRIMARY EXAMINER

asr  
March 14, 2007